APPENDIX A — ORDER OF THE SUPREME COURT OF VIRGINIA, CITY OF RICHMOND DENYING PETITION FOR APPEAL DATED JUNE 25, 2003

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 25th day of June, 2003.

Record No. 030874

Circuit Court No. CL02-1730-00

Allen V. Jaffe,

Appellant,

against

Virginia Phototherapy, L.L.C.,

Appellee.

From the Circuit Court of Henrico County

Upon review of the record in this case and consideration of the amended petition for appeal and the brief in opposition, the Court is of opinion the petition for appeal should be dismissed under Rule 5:11 (c). In part, the appellee states in the brief in opposition, "[T]he arguments being asserted as error in the Petition for Appeal were not raised below." Therefore, a transcript or written statement of facts is necessary to determine whether the appellant stated

objections with reasonable certainty at the time of the ruling as required by Rule 5:25.

On May 22, 2003, the appellee filed a motion to dismiss the petition for appeal in this Court. Because the Court dismisses the petition for appeal under Rule 5:11(c), the motion to dismiss is moot.

On May 28, 2003, the appellant filed a motion to exclude the appellee's brief in opposition. On further consideration whereof, the Court denies the motion.

Furthermore, the record indicates that the circuit court entered an order, dated January 24, 2003, dismissing the case with prejudice. The appellant filed a notice of appeal in the circuit court on February 7, 2003, and a petition for appeal in this Court on April 21, 2003. Therefore, the appeal was docketed in this Court, and the circuit court was without jurisdiction to enter the order dated April 29, 2003. See Code § 8.01-428(13).

For the reasons stated above, the petition for appeal is dismissed.

A Copy,

Teste:

David B. Beach, Clerk

By: s/ [illegible]
Deputy Clerk

APPENDIX B — FINAL ORDER OF THE CIRCUIT COURT OF THE COUNTY OF HENRICO DATED APRIL 29, 2003

VIRGINIA:

IN THE CIRCUIT COURT OF THE
COUNTY OF HENRICO

CASE NUMBER CL02-1730-00

ALLEN V. JAFFE,

PLAINTIFF,

V.

VIRGINIA PHOTOTHERAPY, L.L.C.,

DEFENDANT.

FINAL ORDER

On April 4, 2003, came the plaintiff, pro se, and the defendant, by counsel, on the papers formerly read and on cross-motions, and the case was argued. Whereupon it is

ORDERED that

No Statement of Facts is certified because this case was dismissed with prejudice on a special plea of *res judicata*.

The Order entered January 24, 2003 is amended, over defendant's objection that twenty-one days have expired.

Appendix B

The Order is amended to provide that plaintiff's Motion for Recusal was granted; accordingly Case Number CL02-1729-00 was transferred to another Judge of this Court. The amendment is ordered because the Order entered January 24, 2003 was prepared by the defendant, did not include the Court's oral ruling granting the Motion for Recusal, was not endorsed by plaintiff, and did not provide for the Clerk to sent a copy of the Order to plaintiff, who, in fact did not receive the Order within the twenty-one days of its entry. Accordingly plaintiffs Motion to Reconsider was timely filed. Rule 1:9.

The Clerk is directed to forward a copy of this Order to the plaintiff, Allen V. Jaffe, 3211 Fox Chase Drive, Midlothian, Virginia 23112, and to Lisa Goodwin, Esquire, counsel for the defendant at Hirschler Fleischer, Post Office Box 500, Richmond, Virginia 23218-0500.

ENTER: APRIL 29, 2003

s/ [illegible]
Judge

APPENDIX C — ORDER OF THE CIRCUIT COURT FOR THE COUTY OF HENRICO DATED JANUARY 24, 2003

VIRGINIA:

IN THE CIRCUIT COURT FOR THE
COUNTY OF HENRICO

Case No. CL02-1730

ALLEN V. JAFFE,

Plaintiff.

v.

VIRGINIA PHOTOTHERAPY, L.L.C.,

Defendant.

ORDER

This day came the parties and argued the Special Plea and Motion for Sanctions filed by defendant Virginia PhotoTherapy, L.L.C., in this matter;

It appearing to the Court that the Order entered on April 9, 2001 dismissing the matter styled *Jaffe v. Virginia PhotoTherapy, L.L.C.*, No. CL01-1543, dismissed with prejudice any claims for breach of contract, breach of warranty or for fraud; and the Order entered on August 8, 2002 dismissing the matter styled *Jaffe v. Virginia Photo-Therapy, L.L.C.*, No. CL01-2094, dismissed with prejudice the claim for medical malpractice, and

Appendix C

It appearing to the Court that the Motion for Judgment herein is barred by the doctrine of *res judicata* because it is based on identical facts, states identical claims and/or claims that could have been raised in the prior cases, is by and against identical parties, and seeks monetary damages;

It is hereby ORDERED that defendant's Special Plea be sustained and that this action be dismissed, said dismissal to be with prejudice.

It is hereby ORDERED that defendant's Motion for Sanctions be denied.

ENTER: 1/24/03

s/ [illegible]
JUDGE

APPENDIX D — ORDER OF THE SUPREME COURT OF VIRGINIA DENYING PETITION FOR REHEARING DATED SEPTEMBER 12, 2003

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 12th day of September, 2003.

Record No. 030874

Circuit Court No. CL02-1730-00

Allen V. Jaffe,

Appellant,

against

Virginia Phototherapy, L.L.C.,

Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 25th day of June, 2003 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,
Teste:

s/ [illegible]
Clerk